

### **REMARKS**

Claims 1-27 and 29-47 were pending in this application. Claim 47 has been amended to correct a typographical error. New claim 48 has been added. Support for new claim 48 can be found throughout the specification and the claims as filed. *No new matter has been added.*

Applicant reserves the right to pursue the claims as originally filed, or similar claims, in this or one or more subsequent patent applications.

### **RESPONSE TO RESTRICTION REQUIREMENT**

The Examiner has required restriction to one of the following inventions under 35 U.S.C. 121 and 372:

**Group I:** Claims 1-27, 29-30, 33, 34, 47, drawn to a method of treating a patient suffering from or susceptible to an RSV infection with benzodiazepine derivatives represented by the formula (I).

**Group II:** Claim 31, drawn to inhaler or nebulizer containing a benzodiazepine derivative.

**Group III:** Claim 32, drawn to composition comprising a benzodiazepine derivative and an anti-inflammatory compound.

**Group IV:** Claims 35-46, drawn to a compound of benzodiazepine derivative represented by formula (Ib) or its pharmaceutical composition.

Applicant hereby elects the invention covered by the pending claims of Group I (claims 1-27, 29-30, 33, 34, 47 and new claim 48), for continued examination.

Applicant reserves the right to traverse the restriction between the elected and withdrawn groups in this or a continuing application. Applicant further reserves the right to pursue the non-elected groups in one or more divisional applications.

Applicant further elects the following disclosed species for searching purposes only: (S)-4-Fluoro-N-(2-oxo-5-phenyl-2,3-dihydro-1H-benzo[e][1,4]diazepin-3-yl)-2-piperidin-1-yl-benzamide. This species is generically covered by claim 1 and specifically covered by claims 42, 47 and 48.

Applicant further elects the following disclosed patient population species for searching purposes only: an adult suffering from immunodeficiency. This species is generically covered by claim 1 and specifically covered by 29.

Applicant further elects the following disclosed medicament species for searching purposes only: species A comprising a benzodiazepine derivative. This species is covered by claims 1-22, 29-30, 33, 34, 47 and 48.

Applicant has provided the above elections and claim identifications for the purpose of being responsive. It is Applicant's understanding that the species elections are for searching purposes only, and upon a finding of allowability of the elected species, the remaining species will also be searched.

**CONCLUSION**

Applicant believes that no additional fees are due. However, if any additional fees are due, please charge our Deposit Account No. 12-0080, under Order No. NV2-019US, from which the undersigned is authorized to draw.

If a telephone conversation with Applicant's agent would help expedite the prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Dated: December 15, 2008

Respectfully submitted,

By /Elizabeth A. Hanley/  
Elizabeth A. Hanley  
Registration No. 33,505  
LAHIVE & COCKFIELD, LLP  
One Post Office Square  
Boston, Massachusetts 02109-2127  
(617) 227-7400 (Tel.)  
(617) 742-4214 (Fax)  
Agent for Applicants